

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 18: Confidentiality and Security</b>	<b>Effective Date: 12/02/2019</b>
	<b>Section 3: Federal Tax Information (FTI)</b>	<b>Version: 1.1 Revision Date: 12/02/2019</b>

**BACKGROUND**

The Internal Revenue Service (IRS) may disclose the following return information to state and local child support enforcement agencies with respect to a person against whom a child support obligation is to be established, modified, or enforced under Title IV-D:

1. Social Security number, address, filing status, amount and nature of income, number of dependents reported on a refund, and amount of tax offset;<sup>1</sup> and
2. Amount of the person’s gross income, names and addresses of income payors, and names of dependents reported on the return, but only if such return information is not reasonably available from another source.<sup>2</sup>

**POLICY**

Information disclosed by the IRS to the Title IV-D Program (the Title IV-D Program is collectively comprised of the Child Support Bureau (CSB), Title IV-D Prosecutor, and Clerk of Courts) is only for the purposes of, and to the extent necessary in, establishing and enforcing child support orders and locating individuals owing such obligations.<sup>3</sup>

Access to Federal Tax Information (FTI) shall be limited to employees and contractors of the Title IV-D Program whose official duties require access to FTI for the purposes stated above.<sup>4</sup>

No employee of the Title IV-D Program shall inspect FTI, except as authorized.<sup>5</sup> Further, no employee of the Title IV-D Program shall disclose FTI, except as authorized.<sup>6</sup> FTI may be disclosed to the taxpayer to whom the FTI pertains and that taxpayer’s legal representative. The Title IV-D Prosecutor or CSB may disclose the following information about a federal tax offset payment to the custodial party only after the payment is received by the Title IV-D agency:

1. The date of the payment;
2. The amount of the payment;
3. The source of the payment; and
4. That the payment may be held up to six (6) months and is subject to adjustment.<sup>7</sup>

<sup>1</sup> 26 U.S.C. § 6103(l)(6)(A)(i); 26 U.S.C. § 6103(l)(6)(B)

<sup>2</sup> 26 U.S.C. § 6103(l)(6)(A)(ii)

<sup>3</sup> 26 U.S.C. § 6103(l)(6)(C)

<sup>4</sup> Publication 1075, Section 6.4.3

<sup>5</sup> 26 U.S.C. § 7213A(a)(2); CSB-AT-417

<sup>6</sup> 26 U.S.C. § 6103(a); 26 U.S.C. § 7213(a)(2); 45 C.F.R. § 307.13(a)(4); CSB-AT-417

<sup>7</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes – Matrix

Any other disclosure of FTI is allowed outside of the Title IV-D Program only if the information is independently verified through another source.<sup>8</sup> The penalties for willfully disclosing or inspecting FTI include fines and/or imprisonment.<sup>9</sup>

A person whose FTI is knowingly or negligently disclosed or inspected, may bring a civil action for damages.<sup>10</sup> This action must be brought within two (2) years of the date the plaintiff discovered the unauthorized disclosure or inspection.<sup>11</sup> Upon the finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff the costs of the court actions, including attorney fees, and the greater of \$1,000.00 for each act of unauthorized disclosure or inspection or the sum of actual and punitive damages.<sup>12</sup>

## REFERENCES

- [CSB-AT-252](#): Removal of Verification Codes of VIRS and VDOR
- [CSB-AT-253](#): IRS Safeguard Report-Disclosure of FTI in Court
- [CSB-AT-409](#): IRS Findings and Auditor Access to FTI
- [CSB-AT-417](#): IRS Federal Tax Information (FTI) Incident Reporting Procedure
- [26 U.S.C. § 6103](#): Confidentiality and disclosure of returns and return information
- [26 U.S.C. § 7213](#): Unauthorized disclosure of information
- [26 U.S.C. § 7213A](#): Unauthorized inspection of returns and return information
- [26 U.S.C. § 7431](#): Civil damages for unauthorized inspection or disclosure of returns and return information
- [45 C.F.R. § 303.21](#): Safeguarding and disclosure of confidential information
- [45 C.F.R. § 307.13](#): Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997
- [IRS Publication 1075](#): Tax Information Security Guidelines for Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information
- [Use of Federal Tax Information \(FTI\) for Child Support Enforcement Purposes – Matrix](#)

## PROCEDURE

### 1. FTI in the Statewide Child Support System

In the statewide child support system, FTI includes:

- a. Any payment type, adjustment, or joint return with a status of TX; and
- b. Locate response data (name, address, Social Security number, annual wage information, and self-employment indicator) from the Federal Case Registry (FCR) and Federal Offset Program where the locate agency code is IRS, IRS/AWR, or LTXF.

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<sup>8</sup> 45 C.F.R. § 303.21(d)(3)

<sup>9</sup> 26 U.S.C. § 7213(a)(2); 26 U.S.C. § 7213A(b)(1); CSB-AT-417

<sup>10</sup> 26 U.S.C. § 7431(a)(2)

<sup>11</sup> 26 U.S.C. § 7431(d)

<sup>12</sup> 26 U.S.C. § 7431(c)

The CSB does not update names, addresses, or Social Security numbers in the participant and case information screens of statewide child support system with FTI unless the information is verified through a second source.<sup>13</sup> Therefore, this data automatically entered in the participant and case information screens of the statewide child support system is not FTI. Title IV-D Prosecutors and Clerks of Courts are to verify any information obtained from the IRS through a second source before manually entering FTI into the participant or case information screens.

## 2. FTI in Title IV-D Prosecutor Case Files

In a paper or electronic case file, FTI obtained from the statewide child support system continues to be FTI when it is printed or imaged and stored in the case file.<sup>14</sup> Tax return information received directly from the taxpayer to whom the tax return pertains is not FTI and is not subject to the same protections as FTI.<sup>15</sup> However, this information provided directly by the taxpayer is still confidential information.

## 3. Storage of FTI

Files and removable electronic media containing FTI are to be clearly labeled to indicate FTI is included.<sup>16</sup> FTI is to be kept in locked rooms, cabinets, or drawers when not in use.<sup>17</sup> A two (2) barrier method of security is to be used. This means at least two (2) of the following separate security measures must be used:

- a. A secured perimeter enclosed by slab-to-slab walls or a lesser partition supplemented by electronic intrusion and fire detection systems. All doors must be locked. If a fence or gate is used, it must have intrusion detection devices or be continually guarded.
- b. A security room enclosed by slab-to-slab walls with the entrance limited to specifically personnel authorized to access FTI. Door hinge pins must be non-removable or installed on the inside of the room.
- c. A badged employee who has completed FTI training may serve as a barrier during business hours.
- d. A security container with a security lock with keys or a combination.<sup>18</sup>

Computers, electronic media, and removable media that receives, processes, stores, or transmits FTI must be kept in a secure area with restricted access.<sup>19</sup> This means the computer or media must be kept in a secure area under the immediate protection and control of an authorized employee.<sup>20</sup> When not in use, the computer or media must be locked or in a proper storage area or container complying with the two (2) barrier method.<sup>21</sup>

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<sup>13</sup> CSB-AT-252; CSB-AT-417

<sup>14</sup> 26 U.S.C. § 6103(p)(4)(A)

<sup>15</sup> Publication 1075, Section 1.4.4

<sup>16</sup> Publication 1075, Sections 4.5 and 5.2

<sup>17</sup> Publication 1075, Sections 4.3.3 and 4.5

<sup>18</sup> Publication 1075, Section 4.2

<sup>19</sup> Publication 1075, Section 4.5

<sup>20</sup> Publication 1075, Section 4.5

<sup>21</sup> Publication 1075, Section 4.5

#### 4. Access to FTI

Before being given any access to FTI, employees or contractors must complete FTI training.<sup>22</sup> The County Security Administrator (CSA) supplements the self-led training with county specific protocols. Additionally, all employees and contractors must complete FTI training and re-sign the FTI Awareness/Training Record annually.<sup>23</sup>

Keys, combinations, or user IDs to areas containing FTI may only be issued to those requiring access to FTI.<sup>24</sup> An inventory of those with access to these keys, combinations, or user IDs must be kept by the CSA.<sup>25</sup> Combinations should be changed once a year at a minimum.<sup>26</sup>

When a person with access to FTI terminates employment, the CSA must remind the employee that the confidentiality requirement extends beyond the period of employment. All IDs, keys, and badges are to be returned. Finally, all combinations that the individual used in the office are to be changed.<sup>27</sup>

FTI is not to be unattended or unsecured. Individuals with access to FTI must adhere to a clean desk policy meaning that FTI must be locked up or destroyed when not in use. Additionally, any documents or computer screens containing FTI are to be placed out of sight of individuals who are not authorized to access FTI.

Before giving case files or ISETS screen prints to state auditors, including those from State Board of Accounts (SBOA), FTI must be removed.<sup>28</sup>

#### 5. Logs

CSB has provided three (3) logs for use by the Title IV-D Program. The Receipt-Destruction/Distribution Log is a required log used to document the reproduction (by printing, copying, or any other means), receipt, distribution, and destruction of FTI.<sup>29</sup> If a screen or report containing FTI is viewed on the screen but is not printed, it is not logged.<sup>30</sup> The Visitor Security Access Log is required to be completed each time a visitor, or person not authorized to have access to FTI, enters an area in which FTI is stored or in use.<sup>31</sup> Optionally, the office may wish to use the Authorized Access List (AAL). The AAL is completed monthly for all routine visitors to the office, such as cleaning staff, equipment servicers, or other county employees with a business need to

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<sup>22</sup> Publication 1075, Section 6.3

<sup>23</sup> Publication 1075, Section 6.3

<sup>24</sup> Publication 1075, Section 4.3.3

<sup>25</sup> Publication 1075, Sections 4.3.2 and 4.3.3

<sup>26</sup> Publication 1075, Section 4.3.3

<sup>27</sup> Publication 1075, Section 4.3.3

<sup>28</sup> Publication 1075, Section 3.4; CSB-AT-409

<sup>29</sup> Publication 1075, Sections 3.1 and 6.4.1

<sup>30</sup> Publication 1075, Section 3.2

<sup>31</sup> Publication 1075, Section 4.3

be in the office, but who are not authorized to have access to FTI.<sup>32</sup> These routine visitors listed on the AAL do not need to complete the Visitor Security Access Log.

Each of these logs must be kept a minimum of five (5) years from the latest date entered on the log.<sup>33</sup>

## 6. Transmitting FTI

### a. Redaction

If FTI is not essential to the purpose of the communication, it should be redacted before the document is sent to another person or office. When FTI is redacted from a document the document no longer contains FTI and the protections required for FTI no longer pertain. FTI cannot be redacted on certified records as a document cannot be altered once it is certified.

### b. Court

The Title IV-D Prosecutor may not disclose the source of a tax offset payment in court proceedings.<sup>34</sup> The source of the payment may be given as “an involuntary payment”.<sup>35</sup>

### c. Mail and Fax

When mailing or sending FTI by courier, the document containing FTI should be put in an envelope that is sealed and labeled as confidential to the named recipient.<sup>36</sup> That envelope is then put inside a second envelope that is sealed and addressed as usual.<sup>37</sup>

When FTI is sent via fax, the fax cover sheet indicates that FTI is included.<sup>38</sup> The receiving fax machine should be in a secure location where only persons with authority to access FTI are able to retrieve faxes.<sup>39</sup> FTI should only be sent via analog (traditional) fax machine and not via digital fax.

An FTI Receipt Confirmation is included in the envelope or fax. The recipient must complete the FTI Receipt Confirmation and return it to the sender. If the sender does not receive the FTI Receipt Confirmation in a reasonable amount of time, the sender should attempt to confirm receipt by contacting the intended recipient. Failure to obtain confirmation that the FTI was received by the intended recipient is considered a potential security incident and is to be reported pursuant to Section 9 of

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<sup>32</sup> Publication 1075, Section 4.3.1

<sup>33</sup> Publication 1075, Section 3.1 and 9.3.11.7

<sup>34</sup> Publication 1075, Section 5.5

<sup>35</sup> Publication 1075, Section 5.5

<sup>36</sup> Publication 1075, Section 4.4

<sup>37</sup> Publication 1075, Section 4.4

<sup>38</sup> Publication 1075, Section 9.4.4

<sup>39</sup> Publication 1075, Section 9.4.4

this Chapter. The confirmation of receipt is recorded on the Receipt-Destruction/Distribution Log.

d. Electronic Communication

FTI is never to be sent in an email or digital fax.

While EDE was originally created as an electronic document delivery service for the exchange of case documents in intergovernmental cases, it may also be used to securely exchange documents containing FTI or other confidential information between Indiana Title IV-D offices. EDE is accessed through the FPLS State Services Portal (FPLS).

7. Disposing of FTI

FTI may be disposed of either by shredding or burning, with shredding being the most common disposal method.<sup>40</sup> The destruction of FTI must be witnessed by a Title IV-D employee and must not be disclosed to an unauthorized person during the disposal process.<sup>41</sup> Materials including FTI, such as paper, microfilm, or electronic media (e.g., hard drives, tapes, CDs, and flash media) must be destroyed according to guidance in IRS Publication 1075.<sup>42</sup> All record retention requirements must be met when disposing of FTI.

## FORMS AND TOOLS

1. [Authorized Access List](#)
2. [Desktop Guide to FTI Logs & Confirmation Form](#)
3. [Federal Tax & Security Desktop Guide](#)
4. [Federal Tax Information \(FTI\) Receipt Confirmation](#)
5. [Federal Tax Information Security Agreement](#)
6. [FTI Awareness/Training Record](#)
7. [Internal Security Inspection Checklist](#)
8. [FTI Procedures and Logs FAQ](#)
9. [IRS Disclosure Policy Guidance](#): Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes
10. [Receipt – Destruction/Distribution Log](#)
11. [Security Incident Report Form Desk Top Guide](#)
12. [Security Incident Report Form \(FTI & PII\)](#)
13. [User Security Guide](#)
14. [Visitor Security Access Log](#)

## FREQUENTLY ASKED QUESTIONS

<sup>40</sup> Publication 1075, Section 8.3

<sup>41</sup> Publication 1075, Section 8.4

<sup>42</sup> Publication 1075, Sections 8.3, 9.3.10.6, and 9.4.7

1. Q. May the Title IV-D Prosecutor release information about the non-custodial parent's federal tax offset in court?
  - A. If asked whether the non-custodial parent's federal tax offset was received or applied:
    1. The Title IV-D Prosecutor may state whether an involuntary payment was received, the amount, and the date it applied to the case.<sup>43</sup>
    2. The Title IV-D Prosecutor may state whether an involuntary payment is on hold or in undistributed and the amount of that payment.

Under the following circumstances the Title IV-D Prosecutor may not discuss the non-custodial parent's federal tax offset in court:

1. The Title IV-D Prosecutor may not state the source of an involuntary payment as a federal tax offset.<sup>44</sup>
  2. The Title IV-D Prosecutor may not state that a federal tax offset is on hold or undistributed.
  3. The Title IV-D Prosecutor may not state the anticipated release date of an involuntary payment that is on hold or undistributed.
2. Q. What information about a federal tax offset payment may the Title IV-D Prosecutor or CSB give a party to the case?
    - A. The Title IV-D Prosecutor or CSB may disclose to either party or the party's attorney:
      1. The date of the payment;
      2. The amount of the payment;
      3. The source of the payment; and
      4. That the payment may be held up to six (6) months.<sup>45</sup>

The Title IV-D Prosecutor or CSB may disclose information about the payment to the custodial party only after the payment is received by the Title IV-D agency.<sup>46</sup> The Title IV-D Prosecutor or CSB may disclose to the custodial party that the payment is being held, but not why the payment is being held other than that the payment is subject to federal distribution rules and may be subject to adjustment.<sup>47</sup>

The Title IV-D Prosecutor or CSB may discuss any FTI of the non-custodial parent with the non-custodial parent.<sup>48</sup>

## RELATED INFORMATION

N/A

## REVISION HISTORY

<sup>43</sup> CSB-AT-253

<sup>44</sup> CSB-AT-253

<sup>45</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes – Matrix

<sup>46</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes – Matrix

<sup>47</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes – Matrix

<sup>48</sup> Use of Federal Tax Information (FTI) for Child Support Enforcement Purposes – Matrix

Version	Date	Description of Revision
Version 1	05/08/2019	Final Approved Version
Version 1.1	12/02/2019	Added FAQ to take into account IRS matrix which allows certain tax offset information to be provided to the custodial party. Added information on storage of electronic media containing FTI.